



City Hall
Council Chambers
555 Santa Clara Street
Vallejo, CA 94590
www.cityofvallejo.net

AGENDA

VALLEJO CITY COUNCIL SPECIAL MEETING – 6:00 P.M.

DECEMBER 3, 2019

MAYOR
Bob Sampayan

CITY COUNCIL
Vice Mayor, Pippin Dew
Hakeem Brown
Robert H. McConnell
Katy Miessner
Hermie Sunga
Rozzana Verder-Aliga, EdD

This AGENDA contains a brief general description of each item to be considered. The posting of the recommended actions does not indicate what action may be taken. If comments come to the City Council without prior notice and are not listed on the AGENDA, no specific answers or response should be expected at this meeting per State law.

Pursuant to the Government Code Section 54954.3 (The Brown Act), members of the public shall be afforded the opportunity to speak on any agenda item of interest to them provided they are first recognized by the presiding officer. Members of the public wishing to be so recognized are requested to submit a completed speaker card to the City Clerk prior to the consideration of the item.

Those wishing to address the Council on any matter for which another opportunity to speak is not provided on the AGENDA but which is within the jurisdiction of the City Council to resolve may come forward to the podium during the "COMMUNITY FORUM" portion of the AGENDA.

Members of the public have the right to speak on any item on this agenda. Those wishing to address the Council: 1) during the Community Forum are limited to three minutes pursuant to Vallejo Municipal Code Section 2.20.300; 2) on a Consent Calendar item are limited to three minutes pursuant to Vallejo Municipal Code Section 2.02.310; and an Action Calendar item are limited to five minutes pursuant to Vallejo Municipal Code Section 2.02.420.

Notice of Availability of Public Records: All public records relating to an open session item, which are not exempt from disclosure pursuant to the Public Records Act, that are distributed to a majority of the City Council will be available for public inspection at the City Clerk's Office, 555 Santa Clara Street, Vallejo, CA at the same time that the public records are distributed or made available to the City Council. Such documents may also be available on the City of Vallejo website subject to staff's ability to post the documents prior to the meeting. Information may be obtained by calling (707) 648-4527, TDD (707) 649-3562.

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Vallejo City Council Chambers ADA compliant. Devices for the hearing impaired are available from the City Clerk. Requests for disability related modifications or accommodations, aids or services may be made by a person with a disability to the City Clerk's office no less than 72 hours prior to the meeting as required by Section 202 of the Americans with Disabilities Act of 1990 and the federal rules and regulations adopted in implementation thereof.

**CALL AND NOTICE OF
SPECIAL MEETING
AT 6:00 PM
OF THE VALLEJO CITY COUNCIL
DECEMBER 3, 2019**

TO THE MEMBERS OF THE VALLEJO CITY COUNCIL:

You are hereby notified that I do hereby call the Vallejo City Council in special session to consider only the matters stated on the agenda listed below.

NOTICE: Members of the public shall have the opportunity to address the City Council concerning any item listed on the agenda *before or during* consideration of that item. No other items may be discussed at this special meeting.

1. CALL TO ORDER

2. ROLL CALL

3. ACTION CALENDAR

**A. COUNCIL TRAINING ON DECORUM ORDINANCE AND
RESPONSIBILITIES OF ELECTED OFFICIALS REGARDING ACCESS AND
MANAGEMENT OF PUBLIC RECORDS AND APPROVAL OF A
RESOLUTION ADOPTING A REVISED RECORDS ACCESS AND
MANAGEMENT POLICY FOR CITY OF VALLEJO OFFICIALS**

Recommendation: Participate in the Council Training regarding the Decorum Ordinance and Responsibilities of Elected and Appointed Officials Regarding Access and Management of Public Records and Approval of a Resolution Adopting a Revised Public Records Access and Management Policy for City of Vallejo Officials.

Contact: Claudia Quintana, City Attorney (707) 648-4545

Claudia.Quintana@cityofvallejo.net

4. ADJOURNMENT

Dated: Wednesday, November 26, 2019

A handwritten signature in blue ink, appearing to read "Dawn E. Abrahamson for".

Bob Sampayan, Mayor

I, Dawn Abrahamson, City Clerk, do hereby certify that I have caused a true copy of the above notice and agenda to be delivered to each of the members of the Vallejo City Council, at the time and in the manner prescribed by law and that this agenda was posted at City Hall, 555 Santa Clara Street, CA at 5:00 p.m., Wednesday, November 26, 2019.

Dated: Wednesday, November 26, 2019



Dawn G. Abrahamson, City Clerk



DATE: December 3, 2019
TO: Mayor and Members of the City Council
FROM: Claudia Quintana, City Attorney
SUBJECT: **COUNCIL TRAINING ON DECORUM ORDINANCE AND RESPONSIBILITIES OF ELECTED OFFICIALS REGARDING ACCESS AND MANAGEMENT OF PUBLIC RECORDS AND APPROVAL OF A RESOLUTION ADOPTING A REVISED RECORDS ACCESS AND MANAGEMENT POLICY FOR CITY OF VALLEJO OFFICIALS**

RECOMMENDATION

Participate in the Council Training regarding the Decorum Ordinance and Responsibilities of Elected and Appointed Officials Regarding Access and Management of Public Records and Approval of a Resolution Adopting a Revised Public Records Access and Management Policy for City of Vallejo Officials.

REASONS FOR RECOMMENDATION

Recent changes to the local ordinance and to the state law require training and the revision of the record access and management policy for city officials.

BACKGROUND AND DISCUSSION

At Council's direction, commissions have received training regarding the new decorum ordinance and new amendments to the Public Records Act. A short training will be presented to discuss the highlights.

Some important aspects are as follows:

- Public Records Act requests have quadrupled from last year, requiring additional staffing.
- The legal complexity and broad scope of requests have greatly increased, including requests for individual information and personal records
- Since January 1, 2019, the increased volume seems to be from three distinct sources: John Glidden with 84 requests; an anonymous person who calls themselves 'open vallejo' with 134 requests and Dan Rubins, with 23 requests.
- SB 1421 the "Right to Know Act" now mandates disclosure of a broad range of police records in connection with incidents involving serious uses of force, sexual assault and dishonesty related to investigations.

This evolution of the California Public Records Act requires the city to update a number of policies. One of the policies that must be amended is the attached Revised Public Records Access and Management Policy for City of Vallejo Officials.

**Subject: COUNCIL TRAINING ON DECORUM ORDINANCE AND RESPONSIBILITIES OF ELECTED
OFFICIALS REGARDING ACCESS AND MANAGEMENT OF PUBLIC RECORDS AND
APPROVAL OF A RESOLUTION ADOPTING A REVISED RECORDS ACCESS AND
MANAGEMENT POLICY FOR CITY OF VALLEJO OFFICIALS**

Page 2

In *City of San Jose v. Superior Court*, 2 Cal. 5th 608, the California Supreme Court held that a writing which contains information relating to the conduct of the public's business qualifies as a public record, and that generally any record kept by an officer because it is necessary or convenient to the discharge of his official duty is a public record. This is true even if the writing is prepared using the official's personal email account.

Thus, the city's policy needs to be updated to ensure the council's records with regard to councilmember's use of email comports with the standards set in the *City of San Jose* case.

FISCAL IMPACT

There is no fiscal impact associated with this item.

ENVIRONMENTAL REVIEW

This action is exempt from the California Environmental Quality Act (CEQA) because it is not a project which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, pursuant to CEQA Guideline section 15378.

ATTACHMENTS

1.	access and management of public records by officials
2.	council public record and management policy

CONTACT

Claudia Quintana, City Attorney (707) 648-4545

Claudia.Quintana@cityofvallejo.net

RESOLUTION NO. _____ N.C.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VALLEJO
ADOPTING A REVISED PUBLIC RECORDS ACCESS AND MANAGEMENT POLICY FOR
ELECTED AND APPOINTED OFFICIALS**

WHEREAS, a system for management of city records is essential to retrieval of information necessary for City operations and to efficient utilization of City resources; and

WHEREAS, the City is required to maintain certain records in accordance with State law and to ensure the public's access to public records; and

WHEREAS, the City Council of the City of Vallejo desires that the attached revised Public Records Access and Management Policy for City of Vallejo Officials be the document which articulates the appropriate requirements, responsibilities and the management Of E-mail communications and electronic retention thereof for elected and appointed officials.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Vallejo approves the Public Records Access and Management Policy for City of Vallejo Officials, a copy of which is attached hereto as **Exhibit 1**, and incorporated herein by reference.

Adopted by the City Council of the City of Vallejo at a regular meeting held on _____ by the following vote:

Approved as to Form

By: 
City Attorney

Revised Public Records Access and Management Policy for City of Vallejo Officials

*Adopted January 13, 2015
Amended December 3, 2019*

1. Purpose

This Records Management Policy ("Policy") shall apply to each City of Vallejo Council Member, and each person appointed to any Commission, Board or subsidiary body of the City of Vallejo ("City Official"). The Policy serves to preserve and to facilitate access to and management of City records as well as their destruction when they are no longer needed, in accordance with legal requirements and professional standards.

2. City Officials Responsibilities

Each City Official will attend an orientation within twelve months of election or appointment, and become familiar with the statutory framework governing the City's records and their responsibilities under this Policy. Each City Official will review this Policy as well as the sections pertaining to them on the City's Records Retention Schedule, and have the following additional responsibilities:

- a. Reviewing and adhering to this Policy to the extent it applies to each city official.
- b. Complying with Administrative Rule 1.11, regarding records management and retention, which is hereby made applicable to each Council member, Commission or Board Member, along with the applicable Records Retention Schedule;
- c. Complying with Administrative rule 4.6, regarding records search and production, which is hereby made applicable to each Council member, Commission and Board Member, along with the applicable Records Retention Schedule. This rule discusses individual responsibilities for maintaining public records and searching for them whenever those records are found in privately owned devices or private accounts in connection with a Public Records Act Request.
- d. Maintaining the security of records that have been identified as confidential;
- e. Promptly responding to requests made by the Records Coordinator.
- f. Undertaking reasonable efforts to search for and disclose all public records that you can locate with reasonable effort. A search needs to be reasonably calculated to locate responsive documents.
- g. Certify, under penalty of perjury, in a form to be provided by the Records Coordinator that the official has undertaken a diligent search of the records requested
- h. Surrendering any and all City records to their assigned Records Coordinator, City Clerk, City Manager, or City Attorney, when requested, including any records concerning the conduct of the City's business contained in a phone, computer, or account, with the exception of messages stored on private electronic devices and private accounts that are inaccessible to the City, pursuant to *City of San Jose v. Superior Court of Santa Clara County*; and
- i. Immediately notifying the City Clerk, City Manager, and City Attorney of any requests for disclosure of records pursuant to the Public Records Act or Vallejo Sunshine Ordinance.

3. Public Records

"Public records" includes any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by the City of Vallejo, regardless of

physical form or characteristics. Within the meaning of the California Public Records Act. (Cal. Gov. Code 6250 et seq) Such records are the property of the City. Pursuant to *City of San Jose v. Superior Court*, (2017) 2 Cal. 5th 608, a city official's writings about public business are not excluded from disclosure under the California Public Records Act simply because they have been sent, received or stored in a personal account or device.

Emails and electronic communications to and from city officials regarding city business are subject to the California Public Records Act. The courts have observed that preliminary materials that are not customarily discarded or that have not in fact been discarded pursuant to policy or custom must be disclosed. Therefore, if there are e-mails or other data contained in the recipient electronic mail account that are responsive to a records request, that data must be disclosed in compliance with the law.

4. Management of E-mail Communications and Electronic Retention

A. Preference for City's electronic messaging Software for those using email in conducting city business

The City uses Office 365 as its electronic messaging software to facilitate the City's business. All electronic data, including messages and files sent, received and/or stored utilizing the City of Vallejo's e-mail software systems are considered City of Vallejo property.

City of Vallejo Officials will conduct public business via the city's MS Outlook electronic messaging software to the fullest extent possible and reasonable.

B. Limited use of Personal Devices and Personal Accounts; retention schedule

The City recognizes that notwithstanding the City's preference above, City of Vallejo Officials might on limited occasions use their own private devices and accounts to conduct public business. This policy governs those public records that are generated through the use of Public Officials' private devices and private accounts.

All e-mail and texts sent to a City Official while they are in office must be reviewed and identified as either 1) concerning public business or 2) not concerning public business. The City Official must determine for each e-mail or text whether the writing constitutes a public record. If a public record is identified, that public record must be archived as set forth in section 4 below. If the City Official determines that the record is not a public record (for example, spam, unsolicited advertisement, or a draft not to be kept in the regular course of business) the writing may be discarded immediately.

C. Automatic purge cycles for city email and calendar records

Destruction of email and calendar records shall be done automatically pursuant to the automatic purge/delete cycle.

The City's policy shall be to automatically purge or delete all e-mail messages left in the electronic inbox or outbox that are not archived in the normal course of business two

years after receipt. Therefore, unless the recipient archives that e-mail, the e-mail will be automatically deleted from the inbox and the outbox two years after received or sent. This data, along with the data described in this section, is considered preliminary drafts, notes, or memoranda that are not retained by the City in the ordinary course of business. The City has an interest in administering its records and managing the size of its data storage as well as identifying which records are public and which are exempt.

The following is the City's automatic purging cycle:

- E-mail messages will be automatically purged by the City, without any notice to the Official, in accordance with the schedule set forth below.
- The purge cycle for e-mail messages stored within a City Official's "Inbox" and "Sent" folders shall be 2 years, and;
- The purge cycle for calendars, tasks, and notes will be 365 days, and;
- The purge cycle for e-mail messages retained in "Cabinets" or archive folders shall be two years, and;
- The purge cycle for e-mail items, including appointments, notes, and tasks, in the "Trash" folder shall be 14 days.

D. Archiving Emails

When the City Official decides to archive or otherwise preserve an e-mail or other electronic data, such data shall not be retained in the Official's City Outlook folders for purposes of archiving.

When archiving is desired, the e-mail or electronic data must be preserved by printing out and preserving it in a paper file that is in the custody of the Records Coordinator pursuant to a departmental program for filing and storing City records or by saving the document in a permanent electronic folders in a city electronic drive to be identified by the Records Coordinator.

E. Destruction of Electronic Records that have been previously saved or archived

All electronic records saved and contained in City owned computer drives shall be preserved continuously unless destroyed as follows:

- Electronic records that are designated as public records may be deleted once the retention schedule allows for their destruction going through the destruction process with the approval of the City Clerk and City Attorney
- Electronic records may be deleted if they are duplicate copies that are no longer needed in the course of business.
- Electronic data contained in hard drives and other hardware will be deleted and cleaned in a manner which protects the City's interests in potential confidential communication which might be contained therein.